

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK (SKAT) TAX
REFUND SCHEME LITIGATION

MASTER DOCKET

18-md-2865 (LAK)

This document relates to: 18-cv-04833
18-cv-07824
18-cv-07827
18-cv-07828
18-cv-07829

DECLARATION OF SARAH L. CAVE

I, SARAH L. CAVE, declare as follows:

1. I am a Partner at the firm of Hughes Hubbard and Reed LLP, counsel for Plaintiff SKAT, which is the Customs and Tax Administration of the Kingdom of Denmark (“SKAT”).

2. I submit this Declaration in support of SKAT’s Motion to Approve Alternative Service on Defendants Headsail Manufacturing LLC Roth 401K Plan (“Headsail”), Aerovane Logistics LLC Roth 401(K) Plan (“Aerovane”), Edgepoint Capital LLC Roth 401(K) Plan (“Edgepoint”), The Random Holdings 401K Plan (“Random Holdings”), and Raubritter LLC Pension Plan (“Raubritter” and, collectively, the “Plan Defendants”). I have personal knowledge of the matters stated in this declaration.

3. SKAT engaged the services of Target Research & Investigation (“Target Research”) to attempt personal service at the addresses provided by the Defendant Plans in their refund requests. Target Research process servers were unable to deliver to a person authorized to accept service on behalf of any of the Defendant Plans at any known addresses, but executed affidavits memorializing their efforts.

4. Attached hereto as **Exhibit 1** is a true and correct copy of SKAT's motion for an extension of time and the affidavit of attempted service attached thereto filed in *SKAT v.*

Headsail Manufacturing LLC Roth 401K Plan, et al., Case No. 3:18-cv-00984-JBA (D. Conn.).¹

The affidavit of attempted service included in Exhibit 1 states that, on July 27, 2018, a process server attempted service on Defendant Headsail at 425 Park Avenue, New York, New York 10022, and found the address to be under construction and currently vacant.

5. Attached hereto as **Exhibit 2** is a true and correct copy of SKAT's motion for an extension of time and the affidavit of attempted service attached thereto filed in *SKAT v.*

Aerovane Logistics LLC Roth 401K Plan, et al., Case No. 3:18-cv-00757-CSH (D. Conn.).² The

affidavit of attempted service included in Exhibit 2 states that, on July 27, 2018, a process server attempted service on Defendant Aerovane at 425 Park Avenue, New York, New York 10022, and found the address to be under construction and currently vacant.

6. Attached hereto as **Exhibit 3** is a true and correct copy of SKAT's motion for an extension of time and the affidavit of attempted service attached thereto filed in *SKAT v.*

Edgepoint Capital LLC Roth 401K Plan, et al., Case No. 3:18-cv-00877 (D. Conn.).³ The affidavit of attempted service included in Exhibit 3 states that, on July 27, 2018, a process server attempted service on Defendant Edgepoint at 425 Park Avenue, New York, New York 10022, and found the address to be under construction and currently vacant.

1. This case has since been transferred to this district. See *SKAT v. Headsail Manufacturing LLC Roth 401K Plan, et al.*, Case No. 1:18-cv-07824-LAK (S.D.N.Y.) ("*Headsail*").

2. This case has since been transferred to this district. See *SKAT v. Aerovane Logistics LLC Roth 401K Plan, et al.*, Case No. 1:18-cv-07828-LAK (S.D.N.Y.) ("*Aerovane*").

3. This case has since been transferred to this district. See *SKAT v. Edgepoint Capital LLC Roth 401K Plan, et al.*, Case No. 1:18-cv-07827-LAK (S.D.N.Y.) ("*Edgepoint*").

7. Attached hereto as **Exhibit 4** is a true and correct copy of SKAT's motion for an extension of time filed in *SKAT v. The Random Holdings 401K Plan, et al.*, Case No. 3:18-cv-00758 (D. Conn.).⁴ Attached hereto as **Exhibit 5** is a true and correct copy of the affidavit of attempted service prepared with respect to Defendant Random Holdings. The affidavit of attempted service states that, on July 30, 2018, a process server attempted service on Defendant Random Holdings at its address, 200 Henry Street, Apartment 1501, Stamford, Connecticut 06902, and received no response after ringing the doorbell and knocking on the door. The process server also entered the names of Random Holdings and its representative, Defendant Roger Klugman, in the building's electronic directory, and neither name was listed.

8. Attached hereto as **Exhibit 6** is a true and correct copy of the Court's order granting SKAT's letter motion for an extension of time and affidavit of attempted service attached thereto filed in *SKAT v. Raubritter LLC Pension Plan, et al.*, Case No. 1:18-cv-04833-LAK (S.D.N.Y.). The affidavit of attempted service included in Exhibit 6 states that, on June 21, 2018, a process server attempted service on Defendant Raubritter at its address, 160 Central Park South, Suite 1726, New York, New York 10019. The process server rang the doorbell and knocked on the door but received no response; a building concierge later informed the process server that Raubritter was not listed as a resident or owner in the building.

9. At my direction, copies of the summons and complaint and other relevant filings were also mailed to the addresses provided by Defendants Headsail, Aerovane, Edgepoint, Random Holdings, and Raubritter.

4. This case has since been transferred to this district. See *SKAT v. The Random Holdings 401K Plan, et al.*, Case No. 1:18-cv-07829-LAK (S.D.N.Y.) ("*Random Holdings*").

10. SKAT engaged the services of a private investigation firm to help identify any addresses, persons, or entities associated with the Plan Defendants. Working at SKAT's direction, the investigation firm conducted searches of relevant online databases in order to obtain information about the Plan Defendants. Searches were performed on the Delaware Department of State Division of Corporations Entity Search. For the plans with Connecticut and New York addresses, searches were performed on the Connecticut Secretary of State's Online Filing System and the New York Department of State Division of Corporations website, respectively, along with searches through additional Internet databases. Attached as **Exhibit 7** is the results of those searches for Defendant Headsail, **Exhibit 8** is the results of those searches for Defendant Aerovane, **Exhibit 9** is the results of those searches for Defendant Edgepoint, **Exhibit 10** is the results of those searches for Defendant Random Holdings, and **Exhibit 11** is the results of those searches for Defendant Raubritter.

11. As shown in **Exhibit 7**, the searches identified one entity, Headsail Manufacturing LLC, potentially related to Defendant Headsail. Headsail Manufacturing LLC has a business address at 1811 Silverside Road, Wilmington, Delaware 19801 and listed the address of its managing member, Roger Klugman, at 75 Tresser Boulevard, 411, Stamford, Connecticut 06901. On October 26, 2018, I caused a true and correct copy of the summons and complaint in *Headsail*, the docket reports in that action from the District of Connecticut, where it was originally filed, and the Southern District of New York, where it was transferred to, and the four Pretrial Orders concerning the multidistrict litigation to be mailed to the business address of Headsail Manufacturing LLC and the address of Defendant Robert Klugman, its managing member, at the following addresses: 1811 Silverside Road, Wilmington, Delaware 19801 and 75 Tresser Boulevard, 411, Stamford, Connecticut 06901.

12. As shown in **Exhibit 8**, the search results identified one entity, Aerovane Logistics LLC, potentially related to Defendant Aerovane. Aerovane Logistics LLC has a business address at 1811 Silverside Road, Wilmington, Delaware 19801 and listed the address of its managing member, Defendant Roger Klugman, at 75 Tresser Boulevard, 411, Stamford, Connecticut 06901. On October 26, 2018, I caused a true and correct copy of the summons and complaint in *Aerovane*, the docket reports in that action from the District of Connecticut, where it was originally filed, and the Southern District of New York, where it was transferred to, and the four Pretrial Orders concerning the multidistrict litigation to be mailed to the business address of Aerovane Logistics LLC and the address of Robert Klugman, its managing member, at the following addresses: 1811 Silverside Road, Wilmington, Delaware 19801 and 75 Tresser Boulevard, 411, Stamford, Connecticut 06901.

13. As shown in **Exhibit 9**, the search results identified one entity, Edgepoint Capital LLC, potentially related to Defendant Edgepoint. Edgepoint Capital LLC has a business address at 1811 Silverside Road, Wilmington, Delaware 19801 and listed the address of its managing member, Roger Klugman, at 75 Tresser Boulevard, 411, Stamford, Connecticut 06901. On October 26, 2018, I caused a true and correct copy of the summons and complaint in *Edgepoint*, the docket reports in that action from the District of Connecticut, where it was originally filed, and the Southern District of New York, where it was transferred to, and the four Pretrial Orders concerning the multidistrict litigation to be mailed to the business address of Edgepoint Capital LLC and the address of Robert Klugman, its managing member, at the following addresses: 1811 Silverside Road, Wilmington, Delaware 19801 and 75 Tresser Boulevard, 411, Stamford, Connecticut 06901.

14. As shown in **Exhibit 10**, the search results identified one entity, Random Holdings, LLC, potentially related to Defendant Random Holdings. On October 26, 2018, I caused a true and correct copy of the summons and complaint in *Random Holdings*, the docket reports in that action from the District of Connecticut, where it was originally filed, and the Southern District of New York, where it was transferred to, and the four Pretrial Orders concerning the multidistrict litigation to be mailed to the address of Random Holdings, LLC's registered agent: the Delaware Corporation Agency, Inc., 600 N. King Street Suite 400, Wilmington, Delaware 19801.

15. As shown in **Exhibit 11**, the search results identified one entity, Raubritter, LLC, which changed its name to Heartland Family Group, LLC, potentially related to Defendant Raubritter. On October 26, 2018, I caused a copy of the summons, complaint, and docket sheet in *Raubritter*, along with the four Pretrial Orders concerning the multidistrict litigation, to be mailed to two addresses listed for Incorp Services, Inc., the registered agent of Raubritter, LLC/Heartland Family Group, LLC: 919 North Market Street, Suite 950 Wilmington, Delaware 19801 and One Commerce Center, 1201 Orange Street #600, Wilmington, Delaware 19899.

16. Robert Klugman is a defendant in the *Edgepoint*, *Random Holdings*, *Headsail*, and *Aerovane* cases consolidated in this proceeding. In the refund claims submitted to SKAT, Defendant Klugman represented himself as the "Authorized Representative" on behalf of Defendants Edgepoint and Random Holdings, the "Trustee" on behalf of Defendant Headsail, and as the "Duly authorized signatory" on behalf of Defendant Aerovane. *See* Complaint ¶ 40, *SKAT v. Edgepoint Capital LLC Roth 401K Plan, et al.*, Case No. 3:18-cv-877 (D. Conn.) (Dkt. No. 1) (May 24, 2018); Complaint ¶ 40 *SKAT v. Random Holdings 401K Plan, et al.*, Case No. 3:18-cv-758 (D. Conn.) (Dkt. No. 1) (May 4, 2018); Complaint ¶ 40 *SKAT v. Headsail*

Manufacturing LLC, et al., Case No. 3:18-cv-984 (D. Conn.) (Dkt. No. 1) (June 12, 2018); Complaint ¶ 40, *SKAT v. Aerovane Logistics LLC Roth 401K Plan, et al.*, 3:18-cv-757 (D. Conn.) (Dkt. No. 1) (May 4, 2018).

17. Defendant Klugman is represented by David L. Goldberg, Esq. of Katten Munchin Rosenman LLP. At my direction, my colleague, John McGoey, Counsel at Hughes Hubbard & Reed LLP, contacted Mr. Goldberg, who has appeared as counsel for Defendant Klugman in this proceeding, to request that he accept service on behalf of Defendants Edgepoint, Random Holdings, Headsail and Aerovane. Mr. Goldberg declined to accept service.

18. Adam LaRosa is a defendant in the *Raubritter* case consolidated in this proceeding. Defendant LaRosa represented himself as the “authorised signer” on behalf of Defendant Raubritter in the refund claims it submitted to SKAT. Complaint ¶ 40, *SKAT v. Raubritter LLC Pension Plan, et al.*, 1:18-cv-4833 (S.D.N.Y.) (Dkt. No. 1) (May 31, 2018).

19. Defendant LaRosa is represented by Edward M. Spiro, Esq. of Morvillo, Abramowitz, Grand, Iason & Anello PC. At my direction, Mr. McGoey contacted Mr. Spiro, who has appeared as counsel for Defendant LaRosa in this proceeding, to request that he accept service on behalf of Defendant Raubritter. Mr. Spiro declined to accept service.

20. The actions against Defendants Headsail, Aerovane, Edgepoint, and Random Holdings were originally filed in the District of Connecticut and subsequently transferred to this Court. *See* Order of Transfer, *SKAT v. Headsail Manufacturing LLC, et al.*, Case No. 3:18-cv-984 (D. Conn.) (Dkt. No. 14); Electronic Order Granting Motion to Transfer, *SKAT v. Aerovane Logistics LLC Roth 401K Plan, et al.*, 3:18-cv-757 (D. Conn.) (not docketed); Electronic Order Granting Motion to Transfer, *SKAT v. Edgepoint Capital LLC Roth 401K Plan, et al.*, Case No.

3:18-cv-877 (D. Conn.) (not docketed); Electronic Order Granting Motion to Transfer, *SKAT v. Random Holdings 401K Plan, et al.*, Case No. 3:18-cv-758 (D. Conn.) (not docketed).

21. Following the commencement of SKAT's actions against Defendants Headsail, Aerovane, Edgepoint, Random Holdings, and Raubritter, the original deadlines to serve process on those defendants were, respectively, September 10, 2018, August 2, 2018, August 22, 2018, August 2, 2018, and August 28, 2018. Pursuant to the prior orders granting SKAT additional time to serve the Plan Defendants, SKAT's current deadlines to effect service are: December 9, 2018 to serve Defendant Headsail; October 31, 2018 to serve Defendant Aerovane; November 20, 2018 to serve Defendant Edgepoint; October 31, 2018 to serve Defendant Random Holdings; and November 26, 2018 to serve Defendant Raubritter.

I, SARAH L. CAVE, hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: October 29, 2018
New York, New York

/s/ Sarah L. Cave
Sarah L. Cave